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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,139	10/12/2000	John Jianhua Chen	S63.2-9178	7998
490	7590	08/04/2004	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			NOLAN, SANDRA M	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/689,139	CHEN, JOHN JIANHUA	
	Examiner	Art Unit	
	Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 11-13, 15-17, 20, 21, 24-26 and 28-32 is/are rejected.
- 7) ☒ Claim(s) 5, 7-10, 14, 18, 19, 22, 23, 27 and 33-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Claims 1-35 are pending.

Withdrawal of Allowance

2. The allowance of claims 20-30 is hereby withdrawn in order to apply the new ground of rejection below.

Allowable Subject Matter

3. Claims 5, 7-10, 14, 18, 19, 22-23, 27 and 33-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The prior art of record fails to teach or suggest dilatation balloons or processes of making same that employ the specific silanes and/or polymers recited in these claims.

Rejections Withdrawn

5. The 35 USC 112 rejection of claim 10, set out in section 7 of the 17 February 2004 office action ("the last office action"), is withdrawn in view of applicant's amendment to claim 10 in the 14 May 2004 response.
6. The 35 USC 103 rejection of claims 1-9, 11-19 and 31-34 as unpatentable over Nakagawa et al (US 6,479,584), set out in section 9 of the last office action, is withdrawn in view of the persuasive arguments presented in the 14 May 2004 response.

7. The 35 USC 103 rejection of claim 10 as unpatentable over Nagasawa in view of Penfold (US 6,048,935), set out in section 10 of the last office action, is withdrawn in view of the persuasive arguments presented in the 14 May 2004 response.

New Rejection

Claim Rejection - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-4, 6, 11-13, 15-17, 20-21, 24-26 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fritz et al (US 5,735,830).

Fritz teaches catheters (col. 1, line 15) make via the moisture-crosslinking (col. 2, line 21) of polymer compositions containing polyethylenes (col. 1, lines 63-67), silanes and peroxides (col. 2, line 17). At col. 4, lines 19-21, it says that the articles made are removed from the shaping tool after crosslinking.

It fails to teach balloon catheters or catheter balloons.

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Note: The examiner considers "balloon catheters", "catheter balloons" and "dilatation balloons" to be interchangeable terms.

In the absence of convincing objective evidence to the contrary, the use of the materials and processes of Fritz to make catheter balloons for use in/with catheters is deemed a matter of engineering choice.

Response to Arguments

11. Applicant's arguments with respect to claims 1-4, 6, 11-13, 15-17, 20-21, 24-26 and 28-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan
Primary Examiner
Technology Center 1700

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